

Office of the Secretary of Defense

§ 326.9

expressly request confidentiality. All persons interviewed must be informed of their rights and offered confidentiality.

§ 326.8 Procedures for requesting access.

(a) *Request in writing.* An individual seeking notification of whether a system of records contains a record pertaining to him, or an individual seeking access to records pertaining to him which are available under the Privacy Act, shall address the request in writing to the Privacy Act Coordinator, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151-1715. The request should contain at least the following information:

(1) *Identification.* Reasonable identification, including first name, middle name or initial, surname, any aliases or nicknames, Social Security Number, and return address of the individual concerned, accompanied by a signed notarized statement that such information is true under penalty of perjury and swearing to or affirming his identity. An unsworn declaration, under 28 U.S.C. 1746, also is acceptable. In the case of a request for records of a sensitive nature if the PA Coordinator determines that this information does not sufficiently identify the individual, the PA Coordinator may request additional identification or clarification of information submitted by the individual.

(i) In addition, an alien lawfully admitted for permanent residence shall provide his Alien Registration Number and the date that status was acquired.

(ii) The parent or guardian of a minor or of a person judicially determined to be incompetent, or an attorney retained to represent an individual, in addition to establishing the identity of the minor or person represented as required in this part, shall provide evidence of his own identity as required in this part and evidence of such parentage, guardianship, or representation by submitting a certified copy of the minor's birth certificate, the court order establishing such guardianship, or the representation agreement which establishes the relationship.

(2) *Cost.* A statement of willingness to pay reproduction costs. Processing

of requests and administrative appeals from individuals who owe outstanding fees will be held in abeyance until such fees are paid.

(3) *Record sought.* A description, to the best of his ability, of the nature of the record sought and the system in which it is thought to be included. In lieu of this, a requester may simply describe why and under what circumstances he believes that the NRO maintains responsive records; the NRO will undertake the appropriate searches.

(b) *Access on behalf of the individual.* If the requester wishes another person to obtain the records on his behalf, the requester will furnish a notarized statement or unsworn declaration appointing that person as his representative, authorizing him access to the record, and affirming that access will not constitute an invasion of the requester's privacy or a violation of his rights under the Privacy Act. The NRO requires a written statement to authorize discussion of the individual's record in the presence of a third person.

§ 326.9 Procedures for disclosure of requested information.

(a) The PA Coordinator shall acknowledge receipt of the request in writing within ten working days.

(b) Upon receipt of a request, the PA Coordinator shall refer the request to those components most likely to possess responsive records. The components shall search all relevant record systems within their cognizance and shall:

(1) Determine whether a responsive record exists in a system of records.

(2) Determine whether access must be denied and on what legal basis. An individual may be denied access to his records under the Privacy Act only if an exemption has been properly claimed for all or part of the records or information requested; or if the information was compiled in reasonable anticipation of a civil action or proceeding.

(3) Approve the disclosure of records for which they are the originator.

(4) Forward to the PA Coordinator all records approved for release or necessary for coordination with or referral to another originator or interested

party as well as notification of the specific determination for any denial.

(c) When all records have been collected, the PA Coordinator shall notify the individual of the determination and shall provide an exact copy of records deemed to be accessible if a copy has been requested.

(d) When an original record is illegible, incomplete, or partially exempt from release, the PA Coordinator shall explain in terms understood by the requester the portions of a record that are unclear.

(e) If access to requested records, or any portion thereof, is denied, the PA Coordinator shall inform the requester in writing of the specific reason(s) for denial, including the specific citation to appropriate sections of the Privacy Act or other statutes, this and other NRO regulations, or the Code of Federal Regulations authorizing denial, and the right to appeal this determination through the NRO appeal procedure within 60 calendar days. The denial shall include the date of denial, the name and title/position of the denial authority, and the address of the NRO Appeal Authority. Access may be refused when the records are exempt by the Privacy Act. Usually an individual will not be denied access to the entire record, but only to those portions to which the denial of access furthers the purpose for which an exemption was claimed.

§ 326.10 Procedures to appeal denial of access to requested record.

(a) Any individual whose request for access is denied may request a review of the initial decision within 60 calendar days of the date of the notification of denial of access by appealing within the NRO internal appeals process. If a requester elects to request NRO review, the request shall be sent in writing to the Privacy Act Coordinator, National Reconnaissance Office, 14675 Lee Road, Chantilly, VA 20151-1715, briefly identifying the particular record which is the subject of the request and setting forth the reasons for the appeal. The request should enclose a copy of the denial correspondence. The following procedures apply to appeals within the NRO:

(1) The PA Coordinator, after acknowledging receipt of the appeal, shall promptly refer the appeal to the record-holding components, informing them of the date of receipt of the appeal and requesting that the component head or his designee review the appeal.

(2) The record-holding components shall review the initial denial of access to the requested records and shall inform the PA Coordinator of their review determination.

(3) The PA Coordinator shall consolidate the component responses, review the record, direct such additional inquiry or investigation as is deemed necessary to make a fair and equitable determination, and make a recommendation to the NRO Appeals Panel, which makes a recommendation to the Appeal Authority.

(4) The Appeal Authority shall notify the PA Coordinator of the result of the determination on the appeal, who shall notify the individual of the determination in writing.

(5) If the determination reverses the initial denial, the PA Coordinator shall provide a copy of the records requested. If the determination upholds the initial denial, the PA Coordinator shall inform the requester of his right to judicial review in U.S. District Court and shall include the exact reasons for denial with specific citations to the provisions of the Privacy Act, other statutes, NRO regulations, or the Code of Federal Regulations upon which the determination is based.

(b) The Appeal Authority shall act on the appeal or provide a notice of extension within 30 working days.

§ 326.11 Special procedures for disclosure of medical and psychological records.

When requested medical and psychological records are not exempt from disclosure, the PA Coordinator may determine which non-exempt medical or psychological records should not be sent directly to the requester because of possible harm or adverse impact to the requester or another person. In that event, the information may be disclosed to a physician named by the requester. The appointment of the physician will be in the same notarized form